

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS – EASTERN DIVISION

MARGUERITE KUROWSKI and BRENDA)	
MCCLENDON, individually and)	
on behalf of all others similarly situated,)	
)	
Plaintiffs,)	Case No. 1:22-cv-05380
)	
v.)	The Honorable Matthew F.
)	Kennelly, Judge
RUSH SYSTEM FOR HEALTH d/b/a RUSH)	
UNIVERSITY SYSTEM FOR HEALTH,)	
)	
Defendant.)	
)	

DEFENDANT RUSH UNIVERSITY SYSTEM FOR HEALTH’S
RULE 12(B)(6) MOTION TO DISMISS PLAINTIFFS’ COMPLAINT

Defendant Rush System for Health d/b/a Rush University System for Health (Rush) respectfully moves this Court to dismiss Plaintiffs’ Class Action Complaint (Dkt. No. 1) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. The grounds for this motion are set forth more fully in the accompanying memorandum in support, but can be summarized as follows:

1. Plaintiffs’ Wiretap Act claim fails to allege an interception or that Rush is an electronic communications service or the contents of any of plaintiffs’ alleged communications.
2. Plaintiffs fail to state a claim for breach of the implied duty of confidentiality under *Geisenberger v. Willuhn*, 72 Ill. App.3d 435, 438 (2d Dist. 1979).
3. Plaintiffs do not allege they were personally deceived or actual damages under the Illinois Consumer Fraud Act, or future harm for their Deceptive Trade Practices Act claim.
4. Plaintiffs’ invasion of privacy claim by intrusion upon seclusion is based on an alleged disclosure, not an intrusion.

Rush is available for oral argument on the motion to dismiss at the convenience of the Court.

Dated: November 23, 2022

Respectfully submitted,

By: /s/ David Carney
*Counsel for Defendant Rush University
System for Health*

Bonnie Keane DelGobbo
bdelgobbo@bakerlaw.com
BAKER & HOSTETLER LLP
One North Wacker Drive, Suite 4500
Chicago, Illinois 60606
Telephone: (312) 416-6200
Facsimile: (312) 416-6201

David A. Carney
dcarney@bakerlaw.com
BAKER & HOSTETLER LLP
127 Public Square, Suite 2000
Cleveland, Ohio 44114
Telephone: (216) 861-7634

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on November 23, 2022, a true and correct copy of the foregoing Rule 12(b)(6) Motion to Dismiss was served on counsel of record via the Court's electronic filing system.

/s/ David Carney
Counsel for Defendants